

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

FURROY, INC.  
JOHN F. CONROY, SR.  
JOHN F. CONROY, JR.

Claim No. CU-2976

Decision No. CU-586

Under the International Claims Settlement  
Act of 1949, as amended

AMENDED PROPOSED DECISION

The Commission issued its Proposed Decision on this claim on November 1, 1967, denying it for failure to sustain the burden of proof. Thereafter appropriate evidence was submitted and the matter having been reconsidered, the decision is hereby amended.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record shows that FURROY, INC. was organized under the laws of the State of Florida and that it is wholly owned by JOHN F. CONROY, SR. and JOHN F. CONROY, JR., both nationals of the United States since birth. The Commission holds that FURROY, INC. is a national of the United States within the meaning of Section 502(1)(B) of the Act.

As the record shows that JOHN F. CONROY, SR. and JOHN F. CONROY, JR., have an interest in the property subject of this claim, they are joined as claimants herein.

The record includes copies of official corporate records, affidavits, cancelled checks and similar documentation which establishes that a Cuban

entity known as Bar Flamenco, S.A., was established and issued 120 shares, 118 to FURROY and one each to JOHN F. CONROY, SR. and JOHN F. CONROY, JR. The Commission further finds that the properties of Bar Flamenco were nationalized by the Government of Cuba on July 21, 1961, as asserted by the claimants.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record shows that the original enterprise was to purchase the business of "Bar Club" for \$10,000. However, it was learned that the ownership was otherwise than as represented and in fact the purchase was made in two parts for a total of \$9,600. Claimants assert that improvements were made thereafter increasing the value to \$14,000. There has also been submitted a list of personalty with asserted values totalling \$20,500. The Commission has examined this list and the substantial documentation submitted and finds that the estimated value of \$14,000 is fair and reasonable and concludes that claimants suffered an aggregate loss in this amount as a result of the taking of the property by the Government of Cuba.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered.

Accordingly, the following Certifications of Loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATIONS OF LOSS


The Commission certifies that FURROY, INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Seven Hundred Sixty-Six Dollars and Sixty-Eight Cents (\$13,766.68) with interest thereon at 6% per annum from July 21, 1961 to the date of settlement;

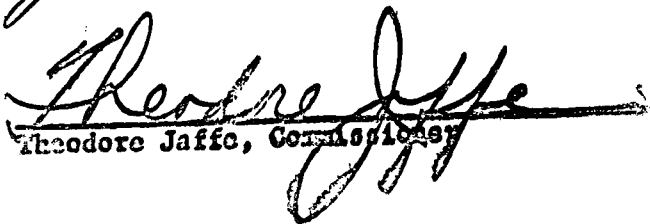
The Commission certifies that JOHN F. CONROY, SR. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Sixteen Dollars and Sixty-Six Cents (\$116.66) with interest thereon at 6% per annum from July 21, 1961 to the date of settlement; and

The Commission certifies that JOHN F. CONROY, JR. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Sixteen Dollars and Sixty-Six Cents (\$116.66) with interest thereon at 6% per annum from July 21, 1961 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Amended  
Proposed Decision of the  
Commission

MAR 24 1971

  
Lylo S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 31.5(e) and (g), as amended (1970).)

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IN THE MATTER OF THE CLAIM OF

FURROY, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2976

Decision No. CU - **586**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$14,000.00, was presented by FURROY, INC. based upon the asserted loss of personal property and stock interests in Bar Flamenco, S.A. of Cuba.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims of nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FGSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of certain stock interests in Bar Flamenco, S.A. of Cuba; however, claimant has submitted no documentary evidence in support of this claim. By Commission letter of July 12, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act.

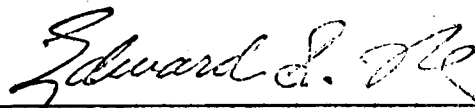
On August 22, 1967, claimant was invited to submit any evidence it might have within 45 days from that date, and was informed, that, absent such evidence it might become necessary to determine the claim on the basis of the present record. In a letter dated October 7, 1967, claimant stated that all documentation in support of this claim in the form of stock certificates, balance sheets and purchase documents was in the possession of a Cuban attorney currently residing in Havana. Thus, other than a schedule of personal property and the birth certificate of John F. Conroy, Sr., claimant has submitted no evidence in support of this claim.

The Commission is well aware of the difficulties some claimants face in establishing their claims; this is not to say, however, that the Commission should make a favorable determination where such action is not warranted by the evidence of record.

The Commission finds that claimant has not met the burden of proof, in that ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba has not been established. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

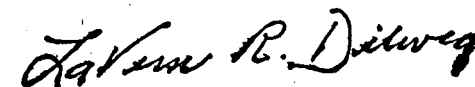
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU- 2976